

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
NORTHWESTERN DIVISION

BEN BURT, )  
                  )  
Plaintiff,     )  
                  )  
v.               )     Case No. 3:03-cv-01435-SLB-HGD  
                  )  
                  )  
TIMOTHY MARTIN, *et al.*,     )  
                  )  
Defendants.     )

**MEMORANDUM OF OPINION**

The magistrate judge filed a report and recommendation on June 16, 2005, recommending that this action be dismissed for failing to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915A(b)(1). The plaintiff filed objections to the report and recommendation on June 23, 2005.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is ACCEPTED. Accordingly, the complaint is due to be dismissed for failing to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915A(b)(1). A Final Judgment will be entered.

The plaintiff's motion to amend [Doc. #16] filed June 15, 2005, is made moot by the above findings and therefore is due to be denied. Plaintiff's "Motion to Demurrer" [Doc. #17] is also due to be denied as moot.

DATED this 12<sup>th</sup> day of August, 2005.

Sharon Lovelace Blackburn

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SHARON LOVELACE BLACKBURN  
UNITED STATES DISTRICT JUDGE